

## **REMARKS**

### **I. Status of the Application**

Claims 1-17 and 24 are pending in the application and stand rejected. Claims 8-10 have been amended. The amendments add no new matter.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include reference signs mentioned in the description and/or as failing to comply with 37 CFR 1.84(p)(5) because they include reference signs not mentioned in the description.

Applicant requests entry of the priority claim included in the Preliminary and Priority Amendment filed July, 5, 2005 and received by the USPTO on July 15, 2005. The priority claim is reflected in the amendments to the specification presented above.

Applicant requests reconsideration of the claim rejections and re-examination of the application in view of the amendments presented above and the following remarks.

### **II. Claims 1-3, 5, 11-17, and 24 are Patentable over Co-pending Application No. 10/537,197 in view of Ivory**

Claims 1-3, 5, 11-17, and 24 are rejected on the grounds of nonstatutory obviousness-type double patenting over claims 1, 9, 13-17, and 24 of co-pending Application No. 10/537,197 in view of Ivory. The rejection is respectfully traversed.

A terminal disclaimer with respect to Application No. 10/537,197 is filed herewith. Accordingly, Applicant requests reconsideration and withdrawal of the rejection.

**III. Claims 1-3, 5-7, 11-13, 15, and 24 are Patentable over Ivory**

Claims 1-3, 5-7, 11-13, 15, and 24 stand rejected under 35 USC § 102(b) as being anticipated by Ivory. This rejection is respectfully traversed.

The invention defined by the subject claims is patentable over Ivory because, with respect to each of the subject claims, Ivory does not disclose an electrophoresis device comprising all elements required by the claim. Ivory does not disclose an electrophoresis device comprising a molecular sieve in a separation chamber, where the molecular sieve is operative to shift the location of a focused band of analyte under a given set of focusing process parameters. Thus, Ivory fails to disclose the molecular sieve required by each of independent claims 1 and 24.

Ivory discloses possible fluid mediums for a separation chamber, but not once does Ivory even mention a “molecular sieve.” Additionally, Ivory fails to disclose or discuss shifting the location at which a stationary focused band of analyte forms in a separation chamber of an electrophoresis device. There is, therefore, no teaching in Ivory of an electrophoresis device comprising “a molecular sieve in the separation chamber operative to shift the location at which a stationary focused band of analyte forms under a given set of focusing process parameters,” as required by the subject claims.

Ivory additionally fails to disclose the significant advantages identified in the instant specification, of utilizing a molecular sieve that shifts the location at which a stationary focused band of analyte forms in a separation chamber of an electrophoresis device. Similarly, Ivory fails to disclose or recognize the significant operational advantage of the electrophoresis devices

of the subject claims, of being able to space from each other the focused bands of different analytes in order to facilitate their individual removal from the separation chamber. Ivory has no discussion of one fluid medium being preferred for any reason over another.

In contrast, the subject claims specifically require utilizing a molecular sieve that is operative to shift the location at which a stationary focused band of analyte forms in the separation chamber under a given set of focusing process parameters. Analytes which would otherwise focus at the same location can instead be focused at different locations in the separation chamber. See paragraph [0062] of the instant specification. By focusing the analytes in the separation chamber at distinct locations, a targeted analyte may be drawn off from the chamber without also drawing off other analytes. See paragraph [0064] of the instant specification. Therefore, Ivory fails to disclose the molecular sieve of the subject claims, and Applicant requests that the rejection be reconsidered and withdrawn.

#### **IV. Claims 4, 8-10, 14, 16, and 17 are Patentable**

Claims 4, 8-10, 14, 16, and 17 stand rejected under 35 USC § 103(a) as being unpatentable over Ivory in view of Ivory B, Koegler, Li, Anderson, Menchen, and Wilson. These rejections are respectfully traversed.

The invention defined by the subject claims is patentable over Ivory, Ivory B, Koegler, Anderson, Menchen, and Wilson because the references do not teach or suggest an electrophoresis device with a molecular sieve in the separation chamber operative to shift the location of a focused band of analyte under a given set of focusing process parameters.

As previously discussed, Ivory fails to disclose the electrophoresis devices defined by

either independent claim 1 or 24. The various secondary references fail to cure the deficiencies of Ivory. Ivory B, Koegler, Li, Anderson, Menchen, and Wilson each fails to disclose an electrophoresis device comprising a molecular sieve operative to shift the location of a focused band of analyte under a given set of focusing process parameters. Therefore, these references fail to cure the deficiencies of Ivory, and Applicant requests reconsideration and withdrawal of the rejections.

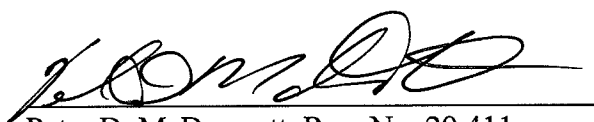
**V. Conclusion**

Applicant requests that the amendments presented above be entered in the referenced patent application, and that the application be reconsidered. Applicant submits that all claims pending in the application are now in condition for allowance.

A petition for a three-month extension of time under 37 C.F.R. 1.136(a) and the accompanying fee are filed herewith. The Commissioner is hereby authorized to charge any such fees or credit any overpayment of fees to Deposit Account No. 19-0733.

Respectfully submitted,

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